

C.C.R.B CASE CLOSING FORM

Investigator assigned: Roger Nunamann		Team: 3	CCRB#: 9903600	<input type="checkbox"/> Force <input type="checkbox"/> Discourtesy <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident: 7/31/99	Time of incident: 9:30 PM	Location of incident: CCRB	Pct. of occurrence: 077	Date S.O.L. Expires: 1/31/99
Date reported: 8/9/99	Time reported: 11:14 AM	To whom/where/how reported: Myles/ CCRB/ Phone		
Complainant: § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s): same as above		Home address:		
Witness(es): NA		Home address:		
Subject officer(s) (include rank): Officer Mervin Bennett Officer Joseph Costanza Officer Jerome Magluilo		Shield: 23183 2578 28152	Tax: 920019 920159 921522	Command: 077 Precinct 077 Precinct 077 Precinct
Witness officer(s) (include rank): NA		Shield:	Tax:	Command:
Allegation(s) by letter: A) Abuse: Officer Mervin Bennett detained Mr. § 87(2)(b) B) Abuse: Officer Joseph Costanza detained Mr. § 87(2)(b) C) Abuse: Officer Jerome Magluilo detained Mr. § 87(2)(b) D) Abuse: Officer Mervin Bennett informed Mr. § 87(2)(b) that he was being arrested after Mr. § 87(2)(b) asked for Officer Bennett's shield number.				Recommendation(s): § 87(2)(g)

Synopsis

Three officers approached Mr. § 87(2)(b) after he consumed alcohol in public. Mr. § 87(2)(b) protested while he was being written a summons. Officer Bennett told Mr. § 87(2)(b) that he was going to jail, but later changed his mind. § 87(2)(g)

Summary of Complaint

Mr. § 87(2)(b) was sitting on a park bench and drinking a 20-oz bottle of Saint Ides Malt Liquor. After drinking half of it, he put the top back on and set the bottle aside. A half an hour later a police van pulled up. Officer Magluilo asked him if he was drinking, and Mr. § 87(2)(b) answered affirmatively. Officers Costanza, Magluilo, and Bennett surrounded Mr. § 87(2)(b). Mr. § 87(2)(b) was "pissed" because he felt like he was being harassed. Mr. § 87(2)(b) was politely asked for his I.D. Officer Magluilo went into the van and began writing a summons.

Mr. § 87(2)(b) asked if he was under arrest. He was told that he was only in custody and would be receiving a summons. Mr. § 87(2)(b) told the officer that he felt like he was being harassed and was going to start writing down information. Mr. § 87(2)(b) looked at the van and wrote down the numbers. He then tried to read Officer Bennett's shield number, but couldn't in the light. Mr. § 87(2)(b) asked Officer Bennett for his badge number. Officer Bennett asked, "What do you want it for?" Mr. § 87(2)(b) responded, "Can I have your badge number? Yes or no?" Officer Bennett grabbed Mr. § 87(2)(b) by the wrist, put his arm behind his back, and stated, "That's it. You are going to jail." Officer Bennett then proceeded to place Mr. § 87(2)(b) other arm behind his back. Officer Magluilo then exited the van with the ticket. Officer Costanza talked to Officer Bennett about the summons. Officer Bennett released Mr. § 87(2)(b) and told him that he would be going to jail if the summons wasn't already written. Mr. § 87(2)(b) was given the ticket (see enclosure 7) and the officers left.

Mr. § 87(2)(b) is upset that a warrant check was run on him. The warrant check has added to his belief that he was being harassed.

Results of Investigation

Officer Magluilo only recalls issuing the summons to Mr. § 87(2)(b). He did not remember any other events.

Officer Costanza stated that Mr. § 87(2)(b) was approached with the intent of issuing him a summons for having an open container of alcohol. Mr. § 87(2)(b) was uncooperative at first, but he finally produced his identification. While the summons was being written, Mr. § 87(2)(b) was irate and continually insisted that he had done nothing wrong. The officers tried to explain the law, but Mr. § 87(2)(b) felt that he knew the law better. Officer Costanza did not remember anyone being asked for their badge numbers nor Mr. § 87(2)(b) being told that he could be arrested. Officer Costanza stated that the complainant never had his hands placed behind his back.

Officer Bennett stated that he and his fellow officers stopped Mr. § 87(2)(b) for having an open container in his right hand. Mr. § 87(2)(b) told the officers that he was not drinking the alcohol. They in turn explained that he was only being ticketed for having an open container. Mr. § 87(2)(b) was "not happy." He was told that he could either be given a summons or arrested. Mr. § 87(2)(b) then decided to show his identification. Mr. § 87(2)(b) expressed that he wanted badge numbers and the number on the van. He asked Officer Bennett for his shield number, and Officer Bennett provided it. He was told to do what he wanted. Mr. § 87(2)(b) kept walking around, so he was asked to sit down while the summons was written. He kept asserting that he did nothing wrong, even though the summons was explained two or three times. Officer

Bennett could not be sure that he didn't put Mr. § 87(2)(b) hands behind his back and tell him that he was going to jail.

Conclusions and Recommendations

- A) Abuse: Officer Mervin Bennett detained Mr. § 87(2)(b) (PG 116-33).
- B) Abuse: Officer Joseph Costanza detained Mr. § 87(2)(b) (PG 116-33).
- C) Abuse: Officer Jerome Magluilo detained Mr. § 87(2)(b) (PG 116-33).

Mr. § 87(2)(b) felt that the officers harassed him. Although he may not agree with having been stopped for an open container, Mr. § 87(2)(b) admitted to having consumed the alcohol in public. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- E) Abuse: Officer Mervin Bennett informed Mr. § 87(2)(b) that he was being arrested after Mr. § 87(2)(b) asked for Officer Bennett's shield number (PG 110-33).

§ 87(2)(b), § 87(2)(g)

No officer corroborated Mr. § 87(2)(b) claims that his hands were placed behind his back and that he was told that he was under arrest. However, Officer Bennett could not confirm or deny the allegation.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

Investigator:

Kayla J. [Signature]

Date:

10/5/99

Supervisor:

[Signature]

Date:

10/4/99

Reviewed by:

Bredhand [Signature]

Date:

10.5.99